

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

December 2, 2002

RESPONSIBLE STAFF:

Jennifer Russel, Director
Planning and Code Administration

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
X	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	10/18/02
	10/30/02
Hearing Date	11/4/02
Record Held Open	Indefinitely
Policy Discussion	12/2/02

TITLE:

T-356—An Ordinance to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article I, Entitled, "In General," Section 24-1 Entitled, "Definitions," so as to Amend the Definition of "Hotel" and Differentiate Types of Said Use; and Further to Amend Article III, Entitled, "Regulations Applicable to Particular Zones," Division 12, Entitled, "C-2 Zone, General Commercial," Section 24-117, Entitled, "Uses Permitted By Right," Division 19, Entitled, "MXD Zone, Mixed Use Development," Section 24-160D.3, Entitled, "Uses Permitted," Division 20, Entitled, "H-M Zone, Hotel-Motel," Section 24-160E.2, Entitled, "Uses Allowed," so as to Differentiate Types of Hotel Uses Allowed and Prohibited.

SUPPORTING BACKGROUND:

With the help of local hoteliers, this text amendment was drafted by the City Attorney to update the Zoning Ordinance's treatment of hotels. The language contained herein reflects the fact that there are a variety of hotel types which market and present themselves as different products to the public based upon the level of service(s) they offer.

Section 24-1 of the zoning ordinance (definition section) is amended to eliminate the current definition of hotel and substitute it with three different types of facilities: full service hotel, limited service hotel and extended stay hotel. The current definition of motel is also amended and updated. Additional changes are inserted into the C-2, MXD and H-M zones. In the C-2 zone all three new types of hotels are added as permitted by right, as is currently the case for hotels. The MXD zone is changed to specifically prohibit extended stay hotels and all three new types of hotels are inserted as uses permitted by right in the H-M zone, since hotels are presently allowed in that zone.

The Planning Commission recommended approval of the text amendment, and suggested additional study regarding the future of lodging in the City be undertaken.

Three additions to the record as well as the ordinance are enclosed: the transcript of the public hearing, a letter received from Jody Kline and the Planning Commission's CPC.

DESIRED OUTCOME:

Mayor and Council close record and give staff guidance.
Ordinance is ready for adoption.

Ordinance No. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE I, ENTITLED, "IN GENERAL," §24-1 ENTITLED, "DEFINITIONS," SO AS TO AMEND THE DEFINITION OF "HOTEL" AND DIFFERENTIATE TYPES OF SAID USE AND FURTHER TO AMEND ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," DIVISION 12, ENTITLED, "C-2 ZONE, GENERAL COMMERCIAL," §24-117 ENTITLED, "USES PERMITTED BY RIGHT," DIVISION 19, ENTITLED, "MXD ZONE, MIXED USE DEVELOPMENT," §24-160D.3 ENTITLED, "USES PERMITTED," DIVISION 20, ENTITLED, "H-M ZONE, HOTEL-MOTEL," §24-160E.2 ENTITLED, "USES ALLOWED," SO AS TO DIFFERENTIATE TYPES OF HOTEL USES ALLOWED AND PROHIBITED.

Text Amendment T-356

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled that Chapter 24; Article I, §24-1; and Article III, §24-117, §24-160D.3 and §24-160E.2 of the City Code are hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

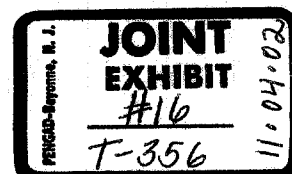
For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

* * * * *

[Hotel. Any building containing ten (10) or more guest rooms where, for compensation, lodging, meals or both are provided for ten (10) or more guests, excluding a fraternity or sorority house, school or college dormitory, tourist home, motel or hotel-apartment as defined herein.]

[Hotel-apartment. Any building or portion thereof designed for or containing both guest rooms for transient guests and dwelling units.]

Hotel, Full service. A building or group of buildings when where for compensation ten (10) or more guest units are provided with sleeping accommodation and daily maid service for transient visitors. Full service hotels provide a public dining room and room service and may contain meeting rooms, retail shops, business centers and recreational facilities. A full service hotel is not an extended stay hotel, motel, inn,



bed and breakfast dormitory, fraternity or sorority house or rooming house or boarding house.

Hotel, limited service. A hotel offering room accommodations with limited amenities including continental breakfast in lieu of a full breakfast and limited congregate meeting space supported by less employees than a full service facility. Individual rooms would not have kitchens or kitchenettes.

Hotel, Extended stay. A building or group of buildings containing ten (10) or more guests units where for compensation a majority of the guest units are intended to be used or hired for use by long term transient guests wherein the units contain sleeping and living accommodations including an equipped kitchen or kitchenette. Extended stay hotels may provide a public dining room or common breakfast room area or other public areas which are open and available to persons who are not guests of the establishment. Long-term transient guests are defined as guests whose stays are for a period of one continuous week or longer. An extended stay hotel is not a full service hotel, motel, inn or bed and breakfast, dormitory or rooming house or boarding house.

Motel. Any group of guest rooms, combined or separated, used for the purpose of housing short-term transient guests, each unit of which is provided with its own toilet and washroom facilities, but do not include kitchen or kitchenette facilities or equipment in the guest units.

* * * * *

ARTICLE III. REGULATION APPLICABLE TO PARTICULAR ZONES

* * * * *

DIVISION 12-C.2 ZONE. GENERAL COMMERCIAL

* * * * *

Sec. 24-117. Uses permitted by right.

The following uses are permitted by right in the C-2 Zone:

* * * * *

(10) [Hotels and] motels

* * * * *

(28) Hotel, full service

(29) Hotel, limited service

(30) Hotel, extended stay

* * * * *

DIVISION 19. MXD ZONE. MIXED USE DEVELOPMENT

* * * * *

Sec. 24-160D.3. Uses permitted.

* * * * *

(b) *Commercial/employment/industrials.* All uses allowed by right in the R-B, C-B, C-1, C-2, C-3, E-1 and I-3 Zones are permitted uses. All uses allowed by special exception in the R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 Zones shall be special exception uses in the MXD Zone and subject to approval by the City Board of Appeals. Designation of a use as a special exception in any of the zones listed herein shall mean the use is a special exception in the MXD Zone, notwithstanding the fact that such use may be allowed as a permitted use in any other zone referred to in this subsection (b). The following uses are specifically prohibited:

* * * * *

Hotel, extended stay

* * * * *

DIVISION 20. H-M ZONE, HOTEL-MOTEL

* * * * *

Sec. 24-160E.2. Uses allowed.

(a) The following uses are permitted in this zone:

* * * * *

[Hotels and] motels
Hotels, full service
Hotel, limited service
Hotel, extended stay

* * * * *

(b) * * * * *

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2002.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2002. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2002.

SIDNEY KATZ, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2002, and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the _____ day of _____, 2002. This Ordinance will become effective on the _____ day of _____, 2002.

DAVID B. HUMPTON, City Manager

TRANSCRIPT OF
JOINT PUBLIC HEARING

ON

T-356

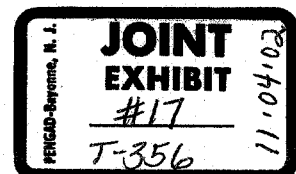
Application Requests an Amendment to Chapter 24 of the City Code (City Zoning Ordinance), Article I, Entitled, "In General," Section 24-1, Entitled, "Definitions," so as to Amend the Definition of "Hotel" and Differentiate Types of Said Use; and Further to Amend Article III, Entitled, "Regulations Applicable to Particular Zones," Division 12, Entitled, "C-2 Zone, General Commercial," Section 24-117 Entitled, "Uses Permitted by Right," Division 19, Entitled "MXD Zone, Mixed Use Development," Section 24-160D.3 Entitled, "Uses Permitted," Division 20, Entitled, "H-M Zone, Hotel-Motel," Section 24-160E.2 Entitled, "Uses Allowed," so as to Differentiate Types of Hotel Uses Allowed and Prohibited

BEFORE THE
CITY OF GAITHERSBURG
MAYOR AND CITY COUNCIL
AND
PLANNING COMMISSION

ON

November 4, 2002

Transcribed by
Doris R. Stokes



PARTICIPANTS

CITY COUNCIL

Mayor Katz
Council Vice President Edens
Council Member Alster
Council Member Marraffa
Council Member Schilchting
Council Member Somerset

PLANNING COMMISSION

Commissioner Hicks
Commissioner Levy
Commissioner Winborne

CITY MANAGER

David B. Humpton

CITY ATTORNEY

Stanley D. Abrams

STAFF

Planning and Code Administration Director Russel

OTHER SPEAKERS

Wes Townson, Real Estate Manager, Extended Stay America
Jody Kline, Esq., Miller, Miller and Canby, Representing Extended Stay America
Diane Dorney, 309 Main Street

- Katz Next we are going to have a joint public hearing. If we could please invite the Planning Commission to come forward and join us. And while they are coming forward if I could please ask Jennifer Russel to introduce T-356 please.
- Russel This is a public hearing on T-356. It amends Chapter 24 of the City Code Zoning Ordinance, Article I, the "Definitions," Article III, which applies to "C-2," "MXD," and "H-M" Zones. The hearing was duly advertised on October 18, 2002, in the *Montgomery Journal* and October 30, 2002 in the *Gaithersburg Gazette*. At the present time there are fourteen exhibits in the record file. They are referenced in the exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning and Code Administration Office during regular business hours at City Hall. Any objections to the receipt of any exhibit should be noted prior to the closing of the record otherwise they will be deemed received in evidence. This text amendment was drafted by the City Attorney to update the City's Zoning Ordinance and its treatment of hotels. In the industry today, there are a variety of hotel types which market themselves differently. Section 24-1 of the Zoning Ordinance which of course is the definition section is amended to eliminate the current definition of hotel which is fairly simplistic and substitute it with three different types of facilities. One being the limited service hotel formerly referred to in your cover sheet as an all suite hotel, limited service, full service and extended stay hotel. There are specific distinguishes made which relate to the level of services that each type of facility provides. Let's take a quick look at the definitions. They all have the same basic language; however, the full service hotel provides in addition to accommodations, a public dining room and room service and in summary a very wide range of congregate facilities. The limited services facility in addition to obviously offering accommodations, offers more limited congregate meeting space, generally speaking of staff by less employees and individual rooms would not have kitchen facilities. The Extend Stay

Hotel is for use by long term transient guest which are defined in the ordinance in the definition and including an equipped kitchen or kitchenette. The current definition of motel which is in the ordinance has been updated and amended so as to preclude kitchen facilities in its definition. Beyond the definition section of the ordinance, changes are made in the C-2, the MXD and the H-M Zones. In the C-2 Zone, all three types of hotels as newly defined are inserted as uses permitted by right simply as a substitute to the existing hotel use which is permitted. The MXD Zone has changed to specifically prohibit Extended Stay Hotels. And all three types of hotels are inserted as uses permitted by right in the H-M Zone which is (inaudible) as a substitute for the current language. I distributed to you this evening, just a brief listing of all the hotels and motels of all different types categorized by their new definitions throughout the City, by address and by zone. There are now presently 12 hotels and motels in the City, five of which are viewed as extended stay (inaudible) in the proposed ordinance. There are three full service hotels, two limited service hotels and two motels. The prohibition against Extended Stay Hotels in the MXD Zone will protect against continued proliferation of the use in the MXD Zone. The MXD Zone as you know is its own (inaudible) a large percentage of land on the western side of the City which still remains undeveloped. The extended stay use would not be precluded from other zones such as C-2 or the Corridor Development Zone so that any redevelopment opportunities that could transpire for extended stay in those zones would not be precluded. Staff is suggesting that the Commission hold their record open for ten (10) days, of course depending upon testimony received and the Mayor and Council hold their record open indefinitely.

Katz Ok. Thank you very much. Any questions of Jennifer?

Levy I had two briefly. One is we define long term transient under hotel extended stay and short term transient is listed under motel. Shouldn't

(inaudible) full service stay in that same (inaudible) the short term transient because that what they seem to be, instead of just transients. I'm just looking for some consistency.

Katz That makes sense.

Russel Yes.

Katz And what was the other one please.

Levy And then the other one is the only place where breakfast is discussed is under hotel limited service, so there is nothing to compare that too with the other types of hotels and the motels. Should that be in there or should....

Edens Well it's a full service as a public diagram.

Levy Right, but that doesn't necessarily mean that what they serve to their guest as breakfast is come in and (inaudible). Sometimes you get breakfast included, you get a full breakfast. I don't mean the fact that they have a dining room which control what types of breakfast they serve the guest that are staying there.

Somerset I think the point was is that the people that put the donut and coffee on the counter at checkout is not the same as a facility that provides a dining room.

Levy Right. I mean we stayed at some places where it is just a small hotel with limited service, but they still as an attraction offer some breakfast.

Katz I think this is the public hearing part, so what I think probably what we should do is actually hear from the public on that and then give this, in the

final determination decide whether or not something should or not be added to the ordinance.

Edens You can make that recommendation in the Commission's recommendation.

Russel I just want to mention that we did consult with some experts in the field in accommodations and lodging industry who felt that some of the distinguishes we made were characteristic throughout the country.

Winborne I just had a question. I just need to understand a little bit more the genesis of this ordinance and you said proliferation, but can you explain a little bit more what that means?

Russel Well if I think if you take a look at the list, you will see that there are almost 50 percent of all the facilities in the City are extended stay and there was some concern that the market might be somewhat unbalanced and that perhaps we have enough hotels in the City to service the market as it is.

Katz Any other questions of staff?

Somerset I don't remember from what I read, is there a definition like an inn and bed and breakfast somewhere?

Russel Bed and breakfast is defined in the Zoning Ordinance and we took a look at it prior to going to public hearing and it really doesn't need updating. It was a relatively, in relation to when hotels were defined, the zoning ordinance was relative new. And it's defined in our zoning ordinance that it has to be in a residential, single-family residential setting. So it is very different and we took a look at it and it does not seem to need updating in the context of what bed and breakfast does in the industry.

Katz Thank you very much. We would like to hear from the public please. This is a time that the Mayor and Council and Planning Commission hear from anyone that would like to speak on the public hearing topic. We ask that you keep your remarks to no more than three minutes. Any additional testimony that you might have can be submitted to the City and will be a part of the record just as your oral testimony and please state your name and address for the record. Do we have anyone that would like to come before us on this topic? Yes sir please.

Townson Mayor and members of the City Council and Madam Chair and members of the Planning Commission, my name is Wes Townson. I am with Extended Stay America Hotel and we are the owner of two hotels in Gaithersburg on Frederick Road. I'm joined today by Jody Kline. Jody needs no introduction I'm sure, he is our counsel. We are here to express our strong opposition to the proposed zoning amendment. We believe the primary motivation behind the proposal may be based on miss information about our company and the Extended Stay Lodging concept arising in part out of our proposal to build an Extended Stay America Hotel in the Kentlands. We appreciate the opportunity to address this matter here. Our company was founded in 1995, went public in 1997, and currently is traded on the New York Stock Exchange. We have 2.5 Billion in assets and sales of over 550 million a year. We are one of the largest owner operators of hotels in America with 452 hotels in 42 states. None of our hotels have ever been sold, closed or converted to another use. Seven hotels are currently operating in the Metro D.C. area. We currently have over 7,000 employees and we are a component of the S (inaudible) cap index. The Extended Stay Lodging concept was started by Residence Inn in 1975 and the brand was purchased by Marriott in 1987. ESA offers a well equipped room featuring a full kitchen with computer data port, a work desk and cable TV. Room types vary from kings, to queens, to double doubles, from 311 square feet to over 500 square feet. Nightly guest receive full housekeeping services and we offer daily and weekly prices.

The hotel is of an (inaudible) design. We close the exterior doors at 11 p.m., but we have an employee on the property all night. Sixty-five percent of our guests are business travelers and thirty-five percent are leisure guest. Our typical guest is male, 44 years of age, with a college degree. He earns almost \$80,000 per year and carries a laptop computer. Our top business customers in terms of (inaudible) per year nationally are the U.S. Military and U.S. Government Agencies, General Dynamics, SDI Industries, Boening, General Electric, Bethel, Walmart, (inaudible) Technologies, Lockheed Martin, (inaudible) International, IBM, (inaudible), State Farm and TRW. Many of these companies are represented here in Gaithersburg. Extended Stay Hotels are often built to (inaudible) community design standards. We will pass around at the end of my presentation, draft design elevations for the Kentlands project as an example. This project includes masonry exterior, parking screening and community based artwork. Let me be candid for a moment.

Katz You are at three minutes. If you can please wrap it up, I will give you 30 seconds.

Townson Ok. There are a number of concerns, seven basic questions that were offered up when we went through the public hearing process. One is that one they will be turned into apartments. They won't be and we will give you a covenant to ensure that that won't happen. We have (inaudible) persons at our hotel, pay for by the county. We have not participated in this program and do not intend to do so. There will be eight or ten people in each room. Our policy is that there will no more four in any room and if we find out that there are more than that, then we will ask everyone in the room to leave the hotel. It is cheaper to stay at an ESA then it is to rent an apartment.

Katz You are at three seconds.

Townson Ok. And so on and so forth. In conclusion, what I would like to say is that we feel strongly that it would not be appropriate to prohibit Extended Stay Hotels in the MXD Zone. There is no reasonable justification for this discrimination against the Extended Stay segment of the lodging industry. We thank you for the opportunity to speak. We have more than we would like to say. Jody would have some additional remarks and I would be glad to answer any questions you might have at the appropriate time.

Katz Thank you very much. Mr. Kline you will be next, and obviously, you can submit any written testimony and it will be regarded the same as oral.

Kline Good evening. My name is Jody Kline. I am an attorney representing ESA. I guess I am going to ask you to consider the premise that not all MXD Zones are created equal. This text amendment is intended or maybe as a function of the City's fixation on trying to keep Extended Stay America out of the Kentlands. And maybe it is not fair to say the City since the Planning Commissioners here have already recommended approval of the schematic development plan amendment, to recommend its approval. But from some part of the City it was decided that maybe we ought to reconsider that decision. I'd like to ask you to look at what this text amendment will do in the other MXD Zones in the City because they are not all equal. I put up a copy of the zoning vicinity map for you. You see in the upper northwest corner of the City, the Professional Drive area. That is not what we think of as an urban MXD. That has something more of an industrial research park environment. Yet there are two Extended Stay Hotels, you can see on the list Ms. Russel provided to you. And they contribute to the business oriented character of that area. Down in the lower right hand corner we have the Washingtonian complex. And if you were sitting here tonight and you were looking at a schematic development plan amendment to propose the Residence Inn by Marriott in Washingtonian, would you have any reservations about allowing this Extended Stay Hotel of that type to be located in the Washingtonian. I'd

like to ask you to think about that. A zoning ordinance is an organic document. Its got to be updated periodically, there is no question about it. But here, the City is not proposing standards to address and control schematic, I'm sorry, Extended Stay Hotels; they are actually talking about prohibiting them. And prohibiting them in only one zone. Have you had a chance to look at Section 24-160D.3 which is the section of the zoning ordinance proposed to include as prohibited use Extended Stay Hotels? When Ms. Russel and Mr. Abrams wrote this ordinance back when Kentlands was being developed, they it thought of almost all the obnoxious uses you can think of that you wouldn't want to have in a mixed used environment like manufacturing, compounding, processing of goods or articles, drive in theatres, automobile paint and body shops. How can anybody think that Extended Stay Hotel can anyway equate to the impact from those kinds of uses. Yet you are putting Extended Stay Hotel in the same category and saying that we shouldn't have it in a MXD Zone. You've heard Mr. Townson talked about how Extended Stay is a well organized company. And I heard Ms. Russel's explanation in response to Mr. Winborne's question, and the simple fact of the matter is that the rationale expressed by Ms. Russel is not consistent with the text of your zoning ordinance. If you were concerned about proliferation of hotels in the City, you will be prohibiting hotels of all types, in all zones, but you are not. You are talking about one type of hotel and one zone only. And you have examples in this City that Extended Stay Hotels do contribute to MXD Zones and yes they can contribute in Kentlands. Thank you very much.

Katz Thank you very much. Anyone else in the audience? Diane please.

Dorney Diane Dorney, 309 Main Street. I would like to say that I am opposed to the proposed amendment both generally and specifically. First of all, generally because the proposed amendment precludes the use in the mixed use zone, in a zone that has been created to be as inclusive as

possible. In this case, it is almost anti-mixed use when you take an Extended Stay Hotel which is going to house people that need services such as restaurants, theatres, dry cleaners, the office nearby to stay in, And you are precluded it in just the very use that would be perfect for it. So I don't understand that. Secondly, if the City is to be moving towards Smart Growth Development then the last thing we need to do is preclude anything that's noxious. One thing that I am concerned about is when the City looks at maybe one instance where, for instance an internet café or say hotel or whatever, may have one mentioned problem and yet somewhere else in the country it could be the best Extended Stay or the best internet café drawing tons of people, lots of income, and lots of great opportunity and just because of one management issue, you are precluding it in a zone. So, I would like the City to think about if you are going to do any precluding at all, its precluding any isolated use such as a hotel being in a isolated situation such as a zone like commercial where they can't get next to something else they need, because all this does is put those very people back on the highway to find a place to eat, a place to take their dry cleaning and a place to go to the theatre. And what we are moving towards in the City or trying to I think is to bring all of these people together where we don't have to add to congestion on the highways. So although I understand the need to maybe define each of these hotels and motels and everything and more specifically in our documents, I would very much urge you to not adopt this amendment. I think it is a big mistake and I think Kentlands specifically could really use an Extended Stay Hotel for a number of reasons. And one other thing we had a meeting with Extended Stay and there were people that came and had concerns and asked questions. I think they were all appreciative of the answer they got from Extended Stay and felt very much better when they left then they did when they got there. So maybe if the City would just take a moment to meet with the Extended Stay people and listen to the answers they have, you will feel more confident about allowing this use in a mixed use zone. Thank you.

Katz Thank you very much. Anyone else in the audience please? What is the pleasure of the Planning Commission?

Somerset I just have one question please. I'm interested to know from those of you who understand the hotel industry when you say that someone in an Extended Stay is a business travel. What would be the reason in this area where we have no military base or something like that for extended stays? I don't envision someone coming in for a business meeting or consultation, or conference or someone having a need for extended accommodations that cannot be met by a different category of lodging. I think of that perhaps wrongly as more transient housing. If you rent an apartment, you have to put down a deposit, you get your credit checked, and things like that. If you can just kind of hang out in these extended stay places for indefinite periods of time cheaply. Cheap is nice, but is that exactly what we want a large number of in our City considering we already have a good (inaudible). Can you clarify that for me? What are we doing there?

Townson Yes. One of the questions that was raised was about dollars. And that EAS was cheaper then renting a one bedroom apartment in Kentlands for example. That is just simply not true. The rates in Kentlands we project to be around \$2,000 a month for 311 square foot space. And the rent now currently in Kentlands is \$1,100 for a space that is twice that size. So in terms of economics, the concern that its just a place where people are going to hang out for period of time for a real low price is just simply not true. We do operate like a hotel and we have the margins that are similar to a hotel. People that are there, as I mentioned nationally, are people who are there for any purpose. They are coming; (inaudible) International is one example. That is one of (inaudible) and other nationally recognized brands of restaurants is one of our big customers. Trainees will come to town to open a new restaurant will be there for period of time to prepare

the restaurant for the opening just as an example. There are people who come in for training, come in for two or three weeks at a time. One of the commercials that is on television now is Residence Inn where you have the lady that is going out for training for a period of two weeks or so. Those are the types of people we are talking about from these various companies. There is a huge variety of uses, all the way from baseball scouts from spring training in Florida, to people who are coming in for a wedding, people who do maintenance on power plants, there is a tremendous variety. And then we talked with people at a meeting we had in the Kentlands and we went through the list of the market was in Kentlands. There is 9 million square feet of office space in (inaudible) alone, and 25 million square feet of office and (inaudible) space in this region. And we are going to be drawing from that. That is going to be our customer base just like many, many other businesses in this region. I don't know if I gave you specific companies and specific purposes, but I hope you can see the tremendous range of customers that we have naturally, as well as other hotels.

Winborne I would like to discuss it a little more because I'm having; I need to understand a little more what the genesis of this is and that was why I asked the question. Because I see the use, and I know that families go on vacations for a week or something and a lot of people come to this area to explore all of the museums and that kind of thing down in the City and they come here and they may catch the Metro and whatever. So when I see that kind of use, you talked a lot about the present uses, but there are uses where families do go on spring break or something and come to area, family reunions, but I just want to understand that is there a problem with it, the way (inaudible) to me that has a very negative connotation. Is there something that has happened in the City that we don't want to happen anymore? Is there some (inaudible) on the City with the way that it is.....

Katz Danny, there again, this is a public hearing. We need to hear from anyone in the public. The record will be left open from this evening. So we shouldn't be giving answers. The time to give your recommendation to the Council will be after. Maybe some people that hear our voices this evening will send in their advice on the topic as well.

Townson If you concern about crime for example in terms of Extended Stay because of this notion that people are hanging out, the fact is that susceptibility to crime in terms of hotels is much lower in the Extended Stay Hotel, because we don't have the turnover of guest during the period of a year that you would have at your average hotel. We also know who our customers are because they are there for a little longer. We are not talking about months, but we are talking about a two week stay on average. At our Kentlands meeting for example, there was a representative from the Marriott there and he said that of all the brands of Marriott, Residence Inn has the lowest susceptibility to crime.

Katz Thank you very much Mr. Townson. What is the pleasure of the Planning Commission please? Who is going to, I didn't know who to ask?

Hicks Do we have a motion on T-356?

Levy I move that the Planning Commission hold their record open for ten (10) days on T-356.

Hicks Do I hear a second?

Winborne I seconded.

Hicks All in favor?

Commission Ayes (3-0)

Hicks The motion carries 3-0.

Katz Thank you very much Mr. Senior Member. What is the pleasure of the Council please?

Schlichting Mr. Mayor I move that we hold our record open indefinitely on T-356.

Edens Seconded.

Katz It's been moved and seconded, all those in favor please say aye?

Council Ayes (5-0)

Katz Opposed? Carries unanimously as well.

END OF JOINT PUBLIC HEARING
T-356

LAW OFFICES

MILLER, MILLER & CANBY

NOV 19 2002

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November 14, 2002

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City of Gaithersburg
Planning Commission
Gaithersburg City Hall
31 S. Summit Street
Gaithersburg, MD 20877

Re: Zoning Ordinance Text Amendment T-356

Dear Chairman Keller and Members of the Planning Commission:

At the joint public hearing held on Monday, November 4, on Text Amendment T-356, the Planning Commission indicated some interest in the genesis of this legislative effort. In response to the Planning Commission's curiosity, I am pleased to provide the following information.

Essentially, the Text Amendment is to prevent the construction and operation of a specific user – Extended Stay America Hotel (Schematic Development Plan Amendment Application Number SDP-02-001) – in a specific zone – the MXD Zone. Unfortunately, the Text Amendment has the likely unintended consequence of affecting the operation of existing extended stay hotels located elsewhere in the city.

The facts related to the origin of Text Amendment T-356 are summarized as follows:

1. When Extended Stay America was meeting with the Kentlands Citizens Assembly as part of its efforts in SDP Amendment Application SDP-02-001, a resident suggested that it was cheaper to stay for an extended period at an ESA hotel than it would be to rent an apartment in Kentlands. This suggestion was somehow communicated to representatives of the city government and may have left the impression that an ESA hotel might be providing long-term housing and shelter for semi-permanent residents rather than for transients. (For this reason, during the public hearing on November 4th, Mr. Townson of ESA spent some time debunking the theory that an ESA hotel was cheaper to reside in than an apartment in Kentlands.)

2. Representatives from City Hall made an impromptu visit to the existing ESA hotel located on Professional Drive. During their visit, a helpful maid showed the representatives a room occupied by a person who had been staying in the hotel for an extended period while executing a consulting contract with a Gaithersburg company. Apparently, the room was messy and conveyed the

impression that the hotel may be catering to persons that would not contribute to the character and environment of Kentlands. (It was for this reason that Mr. Townson spent some time during his November 4th testimony talking about the typical duration of stay at an ESA hotel and the typical client base for ESA.)

3. It did not help that during the pendency of ESA's SDP Amendment application the City was confronted with the possibility that another hotel in the City may be acquired by Montgomery County, Maryland and used for Personal Living Quarters. It would appear that those persons in city government that were already concerned about ESA's hotel were further disturbed that if Extended Stay America failed as a hotel chain, or sold its facility, the building may be eligible for similar use for Personal Living Quarters. (It was for this reason that Mr. Townson advised the City Council and Planning Commission that ESA had never sold a hotel and did not participate in a county program providing overnight housing for persons without shelter.)

4. The City's efforts to solve some of the design and tenancy problems in the Kentland retail area caused some persons in city government to determine the proposed that Extended Stay Hotel should be eliminated from the MXD Zone because it would not provide services that contributed to the vitality of the Kentlands retail sector. As it was explained to me, the proposed ESA hotel would not provide "attractions" which would help activate the retail area during the mid-day.

5. It has also been suggested by some in City government that redevelopment and reconstruction of existing buildings in the retail sector of Kentlands may provide an opportunity for a location within Kentlands for what the Text Amendment defined as a full service hotel that would provide more of the services that some in city government believe are more appropriate for this area of Kentlands.

Extended Stay America is disappointed that some in city government have chosen to eliminate extended stay hotels in the MXD Zone rather than accept ESA's proposal to build a hotel in Kentlands with programs that would contribute to strengthening the retail core. We hope that the city will recognize the short sightedness of Text Amendment T-356 and will allow Extended Stay America an opportunity to construct its hotel and to contribute to the overall betterment of Kentlands.

In a related matter, Zoning Ordinance Text Amendment No. T-356 fails to provide any protection for the existing extended stay hotels already located in a city in the MXD Zone. Extended Stay America asks that the Planning Commission recommend that, at a minimum, Text Amendment No. T-356 contain the provision reading like or similar to the following:

"Any extended stay hotel existing in the MXD Zone as of _____ [date of adoption of Zoning Ordinance Resolution] will not be considered a non-conforming use and may be altered, enlarged, expanded, modified or

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reconstructed in accordance with the provisions of the Zoning Ordinance
then in effect."

Thank you for your interest in this Text Amendment and your consideration of the comments set
forth above.

Sincerely yours,

MILLER, MILLER & CANBY

A handwritten signature in black ink that reads "Jody Kline". The signature is written in a cursive, slightly stylized font. The "J" is large and loops around the "o", and the "K" is also stylized with a loop.

Jody S. Kline

JSK:cdp

Cc: David Humpton
Fred Felton
Jennifer Russel
Trudi Srouers
Dan Janousek
Stan Abrams, Esq.
Wes Townson
Tom Parker
Piero Bussami, Esq.
Mindy Hurwitz, Esq.

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: David Humpton, City Manager

FROM: Jennifer Russel, Planning and Code Administration Director

DATE: November 25, 2002

SUBJECT: T-356 -- Ordinance to amend Chapter 24 of the City Code (City Zoning Ordinance), Article I, entitled "In General," §24-1 entitled "Definitions," so as to amend the definition of "Hotel" and differentiate types of said use; and further to amend Article III, entitled "Regulations Applicable to Particular Zones," Division 12., entitled "C-2 Zone, General Commercial," §24-117 entitled "Uses Permitted by Right," Division 19., entitled "MXD Zone, Mixed Use Development," §24-160d.3 entitled "Uses Permitted," Division 20., entitled "H-M Zone, Hotel-Motel," §24-160E.2 entitled "Uses Allowed," so as to differentiate types of hotel uses allowed and prohibited.

At its regular meeting on November 20, 2002, the Planning Commission made the following motion:

Commissioner Bauer moved, seconded by Commissioner Winborne, to recommend to the City Council ADOPTION of Text Amendment T-356.
Vote: 3-0-1 (Hicks – absent; Levy – abstained)

The Commission further recommended initiating a study of strategic directions for lodging in the City. Commissioner Bauer proposed that strategic directions be developed to identify and balance facets or tiers of lodging that span from economy types to resorts.